

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOHN EARL JORDAN, JR.

PETITIONER

VERSUS

CIVIL ACTION NO. 1:05cv234LG-JMR

GEORGE H. PAYNE, JR.

RESPONDENT

MEMORANDUM OPINION AND ORDER

This matter is before the court, *sua sponte*, for consideration of dismissal. The instant petition for habeas relief pursuant to 28 U.S.C. § 2241, was filed on May 17, 2005, while the Petitioner was an inmate incarcerated at the Harrison County Adult Detention Center, Mississippi. The criminal case which is the gravamen of this pretrial detention habeas petition is *U.S. v. Jordan*, No. 1:04cr3LG-JMR (S.D. Miss. May 5, 2006).

In his habeas petition, Jordan asserts: (1) his right to a speedy trial was violated; and (2) he should be tried under common law, not statutory law. Petitioner claims that he has been held, without trial in this district court, on federal bank robbery charges since December 19, 2003. Petitioner further contends that should he be tried under the common law, the Federal Reserve Notes taken during the bank robbery would be considered worthless and would not constitute a felony offense. Petitioner seeks dismissal of all felony charges levied against him and immediate release from custody.

This Court finds that the two separate orders entered in the Petitioner's criminal case on May 7, 2004, and July 1, 2004, [17-1, 18-1], respectively, *U.S. v. Jordan*, No. 1:04cr3LG-JMR (S. D. Miss. May 5, 2006), clearly state that the Petitioner waived any provision of the Speedy Trial Act. Notwithstanding the Petitioner's waiver of the provisions of the Speedy Trial Act in his criminal case and claim that he should be tried pursuant to common law, this Court finds

that Jordan's habeas petition for release from pretrial confinement is moot because he has now been convicted and sentenced. *See Fassler v. U.S.*, 858 F.2d 1016, 1018 (5th Cir. 1988)(Fifth Circuit "upheld the district court's dismissal of [the petitioner's] petition on the basis that [he] had 'bypassed the expedited appeal procedure' by filing the petition and, because he had been found guilty in the interim, '[w]as now ... legally in federal custody, [making] ... his request for release from pretrial confinement ... moot."

Having reviewed the docket entries in the criminal case *U.S. v. Jordan*, No. 1:04cr3LG-JMR (S.D. Miss. May 5, 2006), the Court finds that the Petitioner entered a guilty plea on June 7, 2005, and was sentenced on May 3, 2006. Therefore, the instant pre-trial habeas petition is found to be moot and does not present a claim upon which habeas relief may be granted.

A final judgment in accordance with this memorandum opinion and order shall be issued.

SO ORDERED AND ADJUDGED this the 24th day of May, 2006.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE